

1225 FRANKLIN AVENUE
SUITE 325
GARDEN CITY, NY 11530
(516) 221-1108

May 14, 2013

VIA Electronic Filing

Magistrate Judge Cheryl L. Pollak
United States District Court
225 Cadman Plaza East
Chambers Room 1230
Courtroom 13B – South
Brooklyn, NY 11201

Re: State Farm Mutual Automobile Insurance Company
v. Superior Medical Rehab, P.C. and Sima Anand, M.D.
Case No.: CV 12-2234

Dear Magistrate Judge Pollak:

This office represents the Defendants Superior Medical Rehab, P.C. and Sima Anand, M.D. with regard to the above-referenced matter. Please withdraw the Motion for Protective Order (Docket #33) pursuant to your Honor's Rules. Kindly accept this letter pursuant to your Rules concerning issues with discovery. Prior to filing this letter, undersigned counsel has had several discussions with Mr. Anders Folk, State Farm's attorney, concerning the issues more fully set forth herein. The issues could not be resolved between counsel and accordingly, this letter is being submitted requesting a protective order with regard to the deposition of Superior Medical Rehab, P.C. and/or Dr. Sima Anand.

Undersigned counsel believes that State Farm has already deposed Superior Medical and Dr. Anand in this case pursuant to the rules of Civil Procedure. In fact, in 2012, after the commencement of the case at bar, State Farm took the sworn testimony of Defendant Dr. Sima Anand on July 23, 2012. Counsel for both parties were aware of the testimony being taken and in fact, Mr. Noteboom, counsel for Plaintiff herein, was present when the testimony was taken. The examination of Dr. Anand took in excess of four (4) hours and involved issues regarding professional practice protocols which are issues involved in the case at bar.

Federal Rule of Evidence Section 30(d)(1) provides that the duration of a deposition is One day for seven (7) hours without leave of the Court. According to Black's Law Dictionary a Deposition is defined as "the testimony of a witness taken upon oral question or written interrogatories, not in open court, but in pursuance of a commission to take testimony issued by a court, or under a general law or court rule on the subject, and reduced to writing and duly authenticated, and intended to be used in preparation and upon the trial of a civil action or criminal prosecution".

The testimony of Dr. Anand was taken under oath in order to gain advantage over the deponent to further the instant litigation. State Farm scheduled the testimony after it filed the instant lawsuit with the full intent to obtain information to further this litigation.

This is further supported by the length of time of the examination as well as the questions.

A protective order should be entered preventing State Farm from taking either Defendant Superior Medical Rehab, P.C.'s or Dr. Sima Anand's deposition since it has already obtained sworn testimony involving the issues in this matter.

Wherefore, it is respectfully requested that a Protective Order be entered that State Farm Insurance Company is not permitted to take either Defendant Superior Medical Rehab, P.C. or Dr. Sima Anand's deposition again along with any other and further relief that this Court may deem just and proper.

Sincerely,

/s/

Bruce Rosenberg, Esq.